

**Notice of Allowability**

Application No.

10/049,861

Examiner

Rip A. Lee

Applicant(s)

KRISTEN ET AL.

Art Unit

1713

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 10, 2004.
2. ☒ The allowed claim(s) is/are 1, 4-8 and 19.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### DETAILED ACTION

This office action follows a response filed on May 10, 2004. Applicants have amended claims 1 and 4-8. New claim 19 was added.

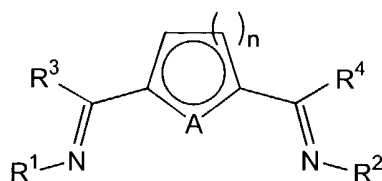
### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel Kim on June 17, 2004.

#### *Claim 1*

replace the structure with the structure shown below:

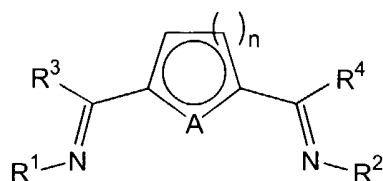


- |        |  |
|--------|--|
| line 3 | replace "among" with "the group consisting of" |
| line 3 | delete the comma after "N"                     |
| line 3 | delete "S, O"                                  |
| line 8 | replace "and" with "or"                        |

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**Claim 5**

replace the structure with the structure shown below:



page 6, line 4                      replace “carbacyclic” with “carbocyclic”

page 6, line 4                      replace “heterocarbacyclic” with “heterocarbocyclic”

**Claim 7**

line 1                                  delete “the”

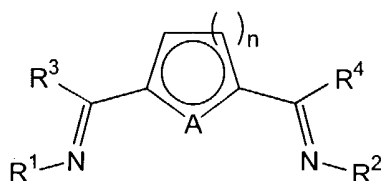
line 2                                  delete “formula (I) of”

line 13                                delete “independently of one another, H or alkyl, aryl”

line 14                                delete “or cycloalkyl radicals,”

**Claim 8**

replace the structure with the structure shown below:



page 8, line 4                      delete the comma after “N”

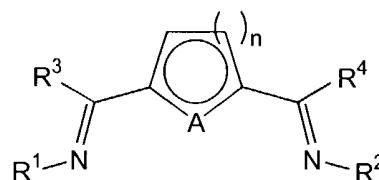
page 8, line 4                      delete “S, O”

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- page 10, line 7 delete "where"
- page 10, line 8 delete "R<sup>7</sup> and R<sup>8</sup> are, independently of one another alkyl, aryl, or cycloalkyl"
- page 10, line 9 delete "radicals"

**Claim 19**

replace the structure with the structure shown below:

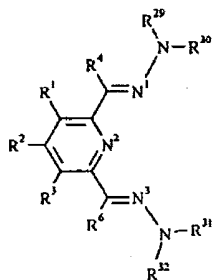


- page 11, line 9 replace "carbacyclic" with "carbocyclic"
- page 11, line 9 replace "heterocarbacyclic" with "heterocarbocyclic"
- page 11, line 17 delete "a nonmetal selected from the group consisting of S, O and"
- page 12, line 7 replace "carbacyclic" with "carbocyclic"
- page 12, line 7 replace "heterocarbacyclic" with "heterocarbocyclic"
- page 12, line 20 replace "carbacyclic" with "carbocyclic"
- page 12, line 21 replace "heterocarbacyclic" with "heterocarbocyclic"
- page 13, line 6 replace "carbacyclic" with "carbocyclic"
- page 13, line 6 replace "heterocarbacyclic" with "heterocarbocyclic"
- page 13, line 15 replace "pyrrol" with "pyrrole"
- page 13, line 16 replace "carbacyclic" with "carbocyclic"

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: Claims 1, 4-8, and 19 are allowed over the closest reference, WO 99/12981 to Britovsek *et al.*

Britovsek *et al.* teaches a compound of general formula P reproduced below in which R<sup>29</sup> to R<sup>32</sup> are hydrocarbyl, substituted hydrocarbyl, heterohydrocarbyl or substituted heterohydrocarbyl; aldimine substituents R<sup>29</sup>/R<sup>30</sup> and R<sup>31</sup>/R<sup>32</sup> "may be linked to form one or more cyclic substituents."



Formula P

The present dependent claims are drawn to embodiments in which at least one of aldimine moieties contains a pyrrole radical or a radical derived from pyrrole in which one or more CH groups in the pyrrole ring may be substituted or which is substituted in the 2- and 5-positions.

It is deemed that one having ordinary skill in the art would not have found it obvious to arrive at the subject matter of the present claims based on the general teaching in Britovsek *et al.*

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that " $R^{29}/R^{30}$  and  $R^{31}/R^{32}$  may be linked to form one or more cyclic substituents." Asymmetric complexes *as per* claim 8 and 19 are even less obvious in view of the teachings of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

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June 23, 2004



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